

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	CRIMINAL NO. 04-10288-RWZ
v.)	
)	
CARLOS ESPINOLA, ET AL.,)	
Defendants)	
)	

GOVERNMENT'S MOTION IN LIMINE
TO ADMIT EVIDENCE OF DEFENDANT CARLOS ESPINOLA'S MEMBERSHIP IN
THE "RED DEVILS" MOTORCYCLE CLUB

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro and David G. Tobin, Assistant U.S. Attorneys, respectfully requests this Honorable Court allow the admission of evidence that defendant Carlos Espinola ("Espinola") was a member of the "Red Devils" motorcycle club. Specifically, the government seeks to admit a photograph taken during booking of Espinola's chest which reveals a tattoo depicting a stylized red devil with the inscriptions "RED DEVILS WORLD" and "OUT 6/02/04." The stylized red devil is the logo of the "Red Devils" motorcycle club. The government also seeks to introduce testimony by co-defendant Joseph Baldassano ("Baldassano") that Espinola told him that he was a member of the "Red Devils," that Baldassano observed Espinola wearing the "colors" of the "Red Devils," and that Baldassano accompanied Espinola to functions hosted and attended by the "Red Devils."

The government avers the following in support of this motion: The government anticipates that Thomas F. Pendergast

("Pendergast") will testify that he was supplied with OxyContin by Baldassano and other members of the conspiracy, and that Baldassano bragged to Pendergast that Baldassano's supplier was a member of the "Red Devils." Pendergast will further testify that co-defendant Jason Matthews informed Pendergast that the supplier's name was Espinola.¹

The proffered trial testimony of Pendergast should be admitted into evidence because it tends to establish the identity of Baldassano's OxyContin supplier as Espinola. During the course of the ongoing OxyContin distribution conspiracy, Baldassano informed a customer of the identity of the supplier. The boastful comments by Baldassano were intended to impress Pendergast, a retail purchaser of OxyContin, with the status of the supplier. Pendergast's expected testimony additionally will corroborate Baldassano's trial testimony that Espinola was his OxyContin supplier. The identity of Baldassano's supplier is primary issue in this case and this evidence goes to the very heart of the government's case.

CONCLUSION

For the above stated reasons, the government ask this Honorable court to admit into evidence the above-described evidence.

¹The government has provided the defense with sworn testimony given by Pendergast on August 18, 2004, during which he testified to the subjects mentioned in this motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ David G. Tobin
DAVID G. TOBIN
MICHAEL J. PELGRO
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on May 2, 2006.

/s/: *David G. Tobin*

DAVID G. TOBIN